IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3787 OF 2007

Shri Ramesh Ramchandra Shinde .. Petitioner

vs

The District Health Officer .. Respondents
Pune Zilla Parishad & ors

Mr.S.V.Pitre for Petitioner

CORAM : S.B.MHASE AND
D.G.KARNIK, JJ

DATED : 16th July, 2007

P.C.

This is a matter about compassionate appointment. The petitioner's mother's services were terminated. However, due to the orders passed in industrial reference, there is an order of reinstatement in her favour. However, the fact remains that during her life time she was not actually reinstated. It appears that she expired on 9th May, 2005 and thereafter the petitioner has made an application for employment on compassionate ground to the respondents. Since the petitioner's claim is not considered, the petitioner has approached this Court.

2. It is abundantly clear that when the mother of the petitioner expired, the age of the petitioner was of 40 years and thereby he was not dependent on his mother. The facts are eloquent for our

purpose, namely for seeking a compassionate appointment, a person must be a dependent on the deceased and that as a result of the death of the person the family is thrown on the road. That creates a compassionate ground in favour of that family. Now since during the life time of his mother the petitioner had attained the age of 40 years he was not in any way dependent on his mother. Apart from that though the mother of the petitioner had claimed to be in service, she was not in service thereby she was not getting any pecuniary salary from 1992 onwards from the respondent-Zilla Parishad. Thus, considering the case of the petitioner in the light of the Supreme Court Judgments wherein it is observed that compassionate appointment is not a right in favour of any person, but a sympathetic wish of the employer to the family of the deceased so as to protect them from being thrown on road as a result of the unfortunate death in the family of the bread earner. Thus evaluated the case of the petitioner, the petitioner is not entitled for compassionate appointment.

3. We repeatedly asked the learned counsel for the petitioner that before addressing the Court on facts, it will be better that the learned counsel puts up before this Court the judgments of the Apex Court so that the facts of the petitioner can be understood and can be analysed in the light of the

Supreme Court judgments. However, it is unfortunate to note that the learned counsel submitted that he is not under an obligation to point out any adverse judgments to the petitioner. We reminded the learned counsel that he is an officer of the Court and as an officer of the court he owes a duty to point out the correct position of law. Inspite of that learned counsel consistently persisted for arguing the matter on facts only and avoided to show the precedents laid down by the Apex Court and he tried to make a hue and cry that he is not obliged. This is very unfortunate on the part of a bar member to make such a statement. His statement shows that he was unable to show the judgments. He should have asked for time and we would have considered the same. But, unfortunately such a prayer was not made. On the contrary, a statement was made that he is not able to point out any adverse judgments to this Court and he was arguing the case on facts.

4. Under these circumstances, we are constrained to pass this order. We find that there is no substance in the petition. It is hereby rejected.

(D.G.Karnik, ,J) (S.B.Mhase, J)